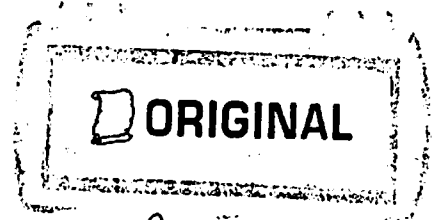


In The United States District Court  
For the Eastern District of New York

Andre Dibys,  
Plaintiff

CHEN, J.  
BLOOM, M.J.



Complaint

June Trial Demanded

v.

Correctional Officer Connors  
(under color of state law)

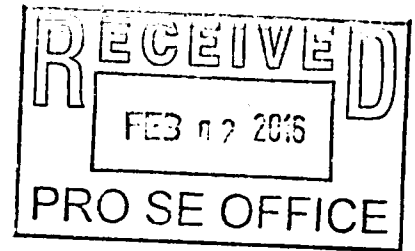
Correctional Officer Holiday  
(under color of state law)

Correctional Officer Hill  
(under color of state law)

Correctional Officer Howard-Kearns

CV 16-0585

Complaint



Plaintiff Andre Dibys, by his self his complaint  
against C.O. Connors, C.O. Holiday, C.O. Hill, and C.O. Howard-  
Kearns, alleges as follows:

### Jurisdiction and Venue

1. This action arises under and is brought pursuant  
to 42 U.S.C. Section 1983 to remedy the deprivation,  
under color of state law, of rights guaranteed by the first,  
Sixth and Fourteenth Amendments to the United States  
Constitution. This court has jurisdiction over this  
action pursuant to 28 U.S.C. Section 1331 and  
1343.

2. Venue properly lies in this District pursuant  
to 28 U.S.C. Section 1391(b)(2), because the events  
giving rise to this cause of action occurred at Brooklyn  
New York which is located within the Eastern District  
of New York.

## Parties

3. Plaintiff Andre Diggs is and was, at all times relevant hereto, a detainee in the custody of the City of New York Department of Corrections. At the time of the events relevant hereto, Diggs was incarcerated at Brooklyn Detention Complex. Diggs is currently incarcerated at (OBCC) Otis Bantum Correctional Center on Rikers Island.

4. Defendant Officer Connors was, at all times relevant hereto, a Correctional Officer at Brooklyn Detention Complex.

5. Defendant Officer Holiday was at all times relevant hereto, a Correctional Officer at Brooklyn Detention Complex.

6. Defendant Officer Hall was at all times relevant hereto, a Correctional Officer at (OBCC) Otis Bantum Correctional Center.

7. Defendant Officer Howard Kearns was at all times relevant hereto, a Correctional Officer at (OBCC) Otis Bantum Correctional Center.

## Previous Lawsuits by Plaintiff

8. Plaintiff has filed no other lawsuits dealing with the same facts involved in this action or otherwise relating to his imprisonment.

## Exhaustion of Administrative Remedies

9. On 10/1/2015 I submitted two grievance forms for my denial of Law Library on 10/1/2015, and 10/2/2015 and the Coordinator claimed that they were combined as one and the resolution by the IGRC was "It is the determination

of the IGRP that this submission be modified. According to directive 3501 pg. 7 each detainee shall receive at least 2 hours each day of Law Library. Small facilities are in operation for at least 8 hours per day. Library was afforded to the unit and grievant participated in Law Library services on October 3<sup>rd</sup>, 6<sup>th</sup> and 8<sup>th</sup> which makes no sense to me because those are not the days that I am complaining about. So I did not accept the informal and requested a formal hearing on my issue. But that never happened. Also on 10/13/2015 I was denied Law Library again for the third time in Brooklyn Detention Complex. And on 10/14/2015 I filed another grievance on my denial of Law Library that was never answered.

10. On 10/16/2015 I was transferred to EMTC on Rikers Island. In which I stayed until 10/20/2015. At which time I was again transferred to OBCC on Rikers Island. Then on 10/20/2015 I signed up for Law Library in my housing unit. And on 10/21/2015 I was again denied access to the Law Library in which I filed a grievance on 10/22/2015 that was never answer to date.

11. So according to the information stated above I believe that I have exhausted my administrative remedies because I can't appeal something that was never answered.

### Statement of Claim

12. At all relevant times herein, defendants were "persons" for the purposes of 42 U.S.C. Section 1983 and acted under color of state law to deprive plaintiff of his constitutional rights, as set forth more fully below.

## Statements of facts

13. On September 30, 2015 I signed the Law Library request sheet so I would be able to go to the Law Library the next day. But on October 1, 2015 I was never afforded the opportunity to go and participate in the Law Library as I am guaranteed by the state and Federal Constitution. I complained to staff and nothing was done. So I submitted a grievance on October 1, 2015 about what I explained above.

14. On October 1, 2015 I signed the Law Library request sheet so I would be able to go to the Law Library the next day but on October 2, 2015 I was never afforded the opportunity to go and participate in the Law Library which I am guaranteed by the state and Federal Constitution. I complained to staff and they told me I was assed out, so I submitted a grievance about such explained above.

15. On October 2, 2015 I signed the Law Library request sheet so I would be able to go to the Law Library the next day. Which is guaranteed to me by the New York state minimum standards and the state and Federal Constitution. But I was not afforded the opportunity to participate in the Law Library. And to make matters worse I asked officer Holiday about going to the Law Library when she let us out of our cells at 5:30 pm. She told me that she was going to make sure that we were not going to the Law Library or anywhere today. And we didn't go to the Law Library that day. And this was the third time I was being denied access to the Law Library in Brooklyn Detention Complex. So on October 14, 2015 I submitted my third grievance on this issue at Brooklyn Detention Complex. And that one was never answered.

16. On October 20, 2015 I signed the Law Library request sheet so I would be able to go to the Law Library the next day. But on October 21, 2015 I was not afforded access to the Law Library as required by the U.S. Constitution. On October 21, 2015 The Law Library officer called my dorm and Officer Hall at no time informed the dorm that it was time to go to the Law Library nor was it logged into the log book. At approximately 6:40 pm. I asked now officer Foster (5270) what happened to Law Library and she gave me a pass to Law Library at 6:44 pm when I got to the Law Library C.O. Howard Kearns denied me access to the Law Library.

### Prayer for Relief

17. Plaintiff request an order declaring that the defendants have acted in violation of the United States Constitution.

18. Plaintiff request an injunction compelling defendants to stop depriving me access to the Law Library.

19. Plaintiff request \$1,000,000 as compensatory damages.

Signed this 30 day of October, 2015

Annie Higgs

I declare under penalty of perjury  
is true and correct

October 30, 2015

DATE

Annie Higgs

# Affidavit

In the United States District Court  
For the Eastern District of New York

Andre Diggs,  
Plaintiff

v.

Correctional Officer Connors  
(under color of state law)  
Correctional Officer Holiday  
(under color of state law)  
Correctional Officer Hall  
(under color of state law)  
Correctional Officer Howard-Kearns  
(under color of state law)  
(individually and in their official capacities)

## Affidavit of Andre Diggs

I, Andre Diggs, being duly sworn according to the  
law deposes and says that I am the plaintiff  
in the above entitled proceeding.

Andre Diggs  
Plaintiff

Sworn to before me this  
30th day of October, 2015  
Ernest O. Omorogbe  
NOTARY PUBLIC

ERNEST O OMOROGBE  
Notary Public- State of New York  
No. 01OM6152449  
Qualified In Nassau County  
My Commission Expires September 11, 2018

ERNEST O OMOROGBE  
Notary Public- State of New York  
No. 01OM6152449  
Qualified In Nassau County  
My Commission Expires September 11, 2018

Exhibit

A



City of New York - Department of Correction

# INMATE GRIEVANCE AND REQUEST PROGRAM STATEMENT FORM

Inmate's Name: <i>ANDRE NIGGS</i>	Book & Case #: <i>541-15-01712</i>	NYSID # (optional): <i>08597442 P</i>	
Facility: <i>BKDC</i>	Housing Area: <i>10A 3 Lower</i>	Date of Incident: <i>10/1/2015</i>	Date Submitted: <i>10/7/2015</i>

## Request or Grievance:

*On September 30, 2015 I signed the Law Library request sheet so it would be able to go to the Law Library but on October 4, 2015 I was never afforded the opportunity to go and participate in the Law Library as I am guaranteed by the state and Federal Constitution. I complained to staff and nothing was done.*

## Action Requested by Inmate:

*I would like this documented and I would like the way this facility handles the way they run the Law Library.*

Please read below and check the correct box:

- Do you agree to have your statement edited for clarification by IGRP staff?  
Do you need the IGRP staff to write the grievance or request for you?  
Have you filed this grievance or request with a court or other agency?  
Did you require the assistance of an interpreter?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Inmate's Signature:

*Andre Niggs*

Date of Signature:

*10/6/2015*

Time Stamp Below:

Grievance and Request Reference #:

Category:

Inmate Grievance and Request Program Staff's Signature:

cc: File



City of New York - Department of Correction

# INMATE GRIEVANCE AND REQUEST PROGRAM STATEMENT FORM

Inmate's Name: <i>ANDRE DIGGS</i>	Book & Case #: <i>541-15-01712</i>	NYSID # (optional): <i>08597442 P</i>	
Facility: <i>BKDC</i>	Housing Area: <i>104 B Lower</i>	Date of Incident: <i>10/2/2015</i>	Date Submitted: <i>10/7/2015</i>

## Request or Grievance:

*On October 4, 2015 I signed the Law Library request sheet, so I would be able to go to the Law Library. But on October 2, 2015 it was never afforded the opportunity to go and participate in the Law Library which I am guaranteed by the state and Federal Constitution. I complained to staff and they told me that they came at 7:00 am and it was assed out.*

## Action Requested by Inmate

*I would like this documented and I would like the way this facility handles the way they run the Law Library. Call but looked into and changed.*

Please read below and check the correct box

Do you agree to have your statement edited for clarification by IGRP staff?  
Do you need the IGRP staff to write the grievance or request for you?  
Have you filed this grievance or request with a court or other agency?  
Did you require the assistance of an interpreter?

<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

Inmate's Signature:

*Andre Diggs*

Date of Signature:

*10/6/2015*

Time Stamp Below:

Grievance and Request Reference #:

Category:

Inmate Grievance and Request Program Staff's Signature:

cc: File



City of New York - Department of Correction

# INMATE GRIEVANCE AND REQUEST PROGRAM STATEMENT FORM

Inmate's Name:	Book & Case #:	NYSD # (optional):	
ANDRE SIBBS	541-15-01712	08597442P	
Facility:	Housing Area:	Date of Incident:	Date Submitted:
BKDC	10 A 3 Lower	10/13/2015	10/14/2015

## Request or Grievance:

On 10/12/2015 I signed the Law Library request sheet so I would be able to go and participate in the Law Library which is guaranteed by the New York State minimum standards as well as the State and Federal Constitution. But I was never afforded the opportunity to participate in the Law Library. And to make matters worse I asked Officer Holiday about going to the Law Library when she let us out of our cells at 5:30 PM she told me that she was going to make sure that we were not going to Law Library or anything today.

## Action Requested by Inmate:

I would like this incident documented and I would like Officer Holiday reprimanded. Also I would like the way the Law Library is ran at this facility to accommodate the inmates in accordance with the Law.

Please read below and check the correct box

Do you agree to have your statement edited for clarification by IGRP staff?

☐

Yes

☒

No

Do you need the IGRP staff to write the grievance or request for you?

☐

Yes

☒

No

Have you filed this grievance or request with a court or other agency?

☐

Yes

☒

No

Did you require the assistance of an interpreter?

☐

Yes

☒

No

Inmate's Signature:

Date of Signature:

10/13/2015

Time Stamp Below:

Grievance and Request Reference #:

Category:

Inmate Grievance and Request Program Staff's Signature:

cc: File



City of New York - Department of Correction

**INMATE GRIEVANCE AND****REQUEST PROGRAM STATEMENT FORM**

The Inmate Grievance and Request Program (IGRP) at the NYC Department of Correction is available to resolve your individual complaints or concerns about specific matters involving incarceration.

A grievance is a written complaint submitted by an inmate in the Department's custody about an issue, action, condition, or practice relating to the inmate's confinement.

A request is a written individually expressed need for a service, assistance, or accommodation regarding any issue relating to the inmate's confinement.

- You may first seek to resolve the issue or condition by speaking to the involved staff or your housing officer.
- You always have the right to file a grievance or request.
- Before you seek relief from an external entity, like the courts or another agency, you should file your grievance or request with this program.

**THE SUBMISSION AND APPEALS PROCESSES****1. SUBMISSION**

Submit this form (Statement form) to the IGRP office, IGRP staff, or drop it in a grievance and request box.

**2. INFORMAL RESOLUTION**

You will receive a proposed resolution within five days after the IGRP receives the form. If you disagree with the proposed resolution, you will have five business days to appeal and request a formal hearing.

If your submission involves a request to exercise religious beliefs or practices not currently available and you seek to appeal, the Committee on Religious Accommodations will review your request.

**3. FORMAL HEARING OF THE INMATE GRIEVANCE RESOLUTION COMMITTEE**

The Inmate Grievance Resolution Committee (IGRC) will conduct a hearing and render a written disposition within five business days from your request for a hearing.

If you disagree with the IGRC's disposition, you will have five business days to appeal to the commanding officer.

**4. COMMANDING OFFICER'S REVIEW**

The IGRP staff will forward your appeal to the commanding officer within one business day of receiving it. Within five business days of receiving the appeal, the commanding officer will render a written disposition.

**5. CENTRAL OFFICE REVIEW COMMITTEE**

If you disagree with the commanding officer's disposition, you will have five business days to appeal to the Central Office Review Committee (CORC). The CORC will render a disposition within 15 business days of receiving the appeal. The CORC's disposition constitutes the Department's final decision.



City of New York - Department of Correction

# INMATE GRIEVANCE AND REQUEST PROGRAM STATEMENT FORM

Inmate's Name: <i>Andre Diggs</i>	Book & Case #: <i>541-15-01712</i>	NYSID # (optional):	
Facility: <i>OBCC</i>	Housing Area: <i>5 Lower</i>	Date of Incident: <i>10/21/2015</i>	Date Submitted: <i>10/22/2015</i>

All grievances and requests must be submitted within 30 business days after the incident occurred unless the conditions prevent the inmate from doing so. Grievances and requests must be submitted in writing and must be signed by the inmate. Upon completion of the grievance or request, the inmate must provide a full and complete copy of the form to the grievance or request program staff.

## Request or Grievance:

On 10/20/2015 I signed the Law Library sheet so I would be able to go to the Law Library. But on 10/21/2015 I was not afforded access to the Law Library as required by the U.S. Constitution. On 10/21/2015 the Law Library Officer called my dorm and Officer Hall at no time informed the dorm that it was time to go to the Law Library nor was it logged into the Log book. At approximately 6:40 pm I asked now Officer Foster (5270) what happened to Law Library and she gave me a pass to Law Library at 6:44 pm. When I got to the Law Library C.O. Kerns denied me access to the Law Library.

## Action Requested by Inmate:

I would like this documented and all parties reprimanded.

Please read below and check the correct box:

Do you agree to have your statement edited for clarification by IGRP staff?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Do you need the IGRP staff to write the grievance or request for you?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Have you filed this grievance or request with a court or other agency?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Did you require the assistance of an interpreter?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Inmate's Signature:

Date of Signature:

*10/21/2015*

IGRP retains the double copy of the original for administrative records. The inmate must provide a copy of this form to the inmate as a record of receipt.

Time Stamp Below:	Grievance and Request Reference #:	Category:
Inmate Grievance and Request Program Staff's Signature:		

cc: File

Exhibit

B



# CITY OF NEW YORK - DEPARTMENT OF CORRECTION



## INMATE GRIEVANCE AND REQUEST PROGRAM

Form: # 7102R  
Eff.: 09/10/12  
Ref.: Dir. #3376

### DISPOSITION FORM

Grievance/Request Reference #:  
B-93/15 Diggs, Andre 5411501712

Date Filed:  
10/9/15

Facility:  
BKDC

Title of Grievance or Request:  
Law Library

Category:  
13

From IGRP Inmate Statement Form, print or type short description of request/grievance:

On Septembers 30, 2015 I signed the Law Library request sheet so I would be able to go to the law library but on october 1, 2015 I was never afforded the opportunity to go and participate in the law library and I am guaranteed by the state and federal constitution. I complained to staff and nothing was done.

Action Requested by Inmate:

I would like this documented and I would like the way this facility handles the law library looked into and changed.

### STEP 1: INFORMAL RESOLUTION

Check one box: ☒ Grievance ☐ Request ☐ Submission not subject to the IGRP process.

The Inmate Grievance and Request Program proposes to informally resolve your grievance or request as follows below. Alternatively, IGRP staff shall provide an explanation for why the submission is not subject to the IGRP process.

It is the determination of the IGRP that this submission be modified. According to directive 3501 pg. 7 each

detainee shall receive at least 2 hours each day of law library. Small facilities are in operation for at least 8 hours per day.

Law Library was afforded to the unit and grievant participated in law library services on October 3, 6 & 8th.

Are you satisfied with the proposed resolution?

☐ Yes, I accept the resolution. ☒ No

I request a formal hearing of the Inmate Grievance Resolution Committee within 5 business days from notification of the proposed resolution. I understand that if my submission involves a request to exercise religious beliefs or practices not currently available, then the Committee on Religious Accommodations will review my request

Inmate's Signature:

Date:

Grievance Supervisor's Signature:

Date:

*Andre Diggs* *10/9/15* *[Signature]* *10/9/15*